



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/173515

PRELIMINARY RECITALS

Pursuant to a petition filed April 7, 2016, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Enrollment Services to discontinue FoodShare benefits (FS), a hearing was held on May 4, 2016, at Milwaukee, Wisconsin, with the judge appearing by telephone.

The issue for determination is whether the agency correctly determined that petitioner's three-month time limited FS ended.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner began receiving FS as a one-person household in the summer, 2015. She also was involved with the FS Employment and Training (FSET) Program since that time, originally on a voluntary basis because of her age.
3. Petitioner turned age 21 on July 15, 2015. She had an FS renewal on November 6, 2015. She became a mandatory FSET participant effective December 1, 2015. On November 20, 2015 the

agency sent petitioner a notice informing her that she was referred to FSET as a time limited FS recipient with a begin month of June, 2015.

4. Petitioner did no FSET activities from December 1, 2015 through February 25, 2016. On February 17, 2016, the agency sent petitioner a notice telling her that FS would end March 1 because her three months' limited benefits were ending.
5. Petitioner then met with FSET on February 25, 2016. She told the case manager that she had been working at [REDACTED]. That information was sent to the income maintenance agency, but that agency declined to change the FS discontinuance because petitioner had not reported the job to FSET or income maintenance. Petitioner last worked at [REDACTED] on February 12, 2016. See Exhibit 4, which is petitioner's handwritten statement.

DISCUSSION

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement. As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat., §49.79(10), which mandated FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24. The program began in Milwaukee County effective April 1, 2015, and FS recipients were required to meet the requirements beginning with the next FS review completed after April 1, 2015. FS Handbook, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If she does not fulfill the work requirement, she is limited to receiving no more than three months' FS during a three year period. The program's requirements are specified in the Department's FS Handbook at §3.17.1. There are some exemptions, but petitioner would not qualify for any of them and she did not argue that she should qualify for an exemption.

To meet the work requirement the ABAWD must work a minimum of 80 hours per month, participate in a work program 80 hours per month, or a combination of both for 80 hours per month. Handbook, §3.17.1.7. The person is limited to three months of FS eligibility in which she is not meeting the 80-hour requirement and is not exempt. Handbook, §3.17.1.9. FS ends after three months of failing to meet the work requirement, but eligibility can begin again if the person becomes exempt or meets the work requirement for a 30-day period (the person could reapply for FS *after* meeting the requirement for 30 days). Handbook, §3.17.1.11.

It is not clear to me why petitioner was considered exempt prior to turning age 21, but clearly as of the November, 2015 review petitioner was a mandatory ABAWD. Petitioner testified that she was unaware of the status, but there was a notice sent in November telling her that she was under the three-month limitation. The notice was somewhat confusing because it gave a start date of June, 2015, but petitioner at very least should have been on notice to inquire about the notice's meaning.

Petitioner did no FSET activities between December 1, 2015 and February 25, 2016. By that time it was too late for her to do enough activities in February to meet the standard.

Petitioner argued that she was working at [REDACTED]. The problem is that even with that job petitioner was not working 20 hours per week with one two-week exception. In the two-week periods ending January 2, January 16, and January 30, petitioner worked between 31 and 35 hours per period (thus under

20 hours per week). See Exhibit 3. She did work 54 hours during the period ending February 13, but that was the last she worked at [REDACTED]. She had no hours the week ending February 20, and she did not do any FSET activities until February 25. On February 25 she reported that she was working 34 hours per week at [REDACTED], so the FSET case manager assigned her to no additional activities. Since petitioner actually had stopped working after February 12, she was unable to do any additional hours.

I conclude that the discontinuance due to the three-month time limit was correct. Petitioner was a mandatory ABAWD and she did not meet the 20-hour per week work requirement during the months of December, 2015, January and February, 2016.

CONCLUSIONS OF LAW

The agency correctly closed petitioner's FS after she failed to meet the ABAWD work requirement for three months.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 11th day of May, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 11, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability